

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

REYNOLDS METALS COMPANY and
ALCOA INC.,

Plaintiffs,

and

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,

Plaintiff-in-Intervention,

v.

ALCAN INC. and ALCAN ALUMINUM
CORPORATION

Defendants.

Case No. C04-175RJB

ORDER DENYING ALCAN'S
MOTION FOR CONTINUANCE
OF TRIAL DATE

This matter comes before the court on the above-referenced motion (Dkt. 219). The court is familiar with the records and files herein and all documents filed in support of and in opposition to the motion.

The court is not without sympathy for the situation that Mr. Hoffman and Mr. Knowles find themselves in. Nevertheless, defendants have not made a sufficient showing under Fed. R. Civ. P. 16(b) of good cause for a modification in the trial schedule for the following reasons:

- 1) This case was filed on January 22, 2004. It was originally set for trial on September 12, 2005, and was continued to May 1, 2006. The case was transferred to the undersigned because Chief Judge Lasnik's calendar was crowded and he did not want to further delay justice, and because the undersigned judge, by virtue of

1 settlements, had an opening in his calendar beginning on May 1, 2006. Trial dates
2 are not readily available, and if the case were to be continued, without unfairly
3 impacting other cases now set, the next available trial date would be in January
4 2007. In short, this case cries out for disposition now. It is now the second oldest
5 case on this court's calendar.

- 6 2) Mr. Salibra was provided *pro hac vice* status on August 25, 2004, and was
7 allowed to withdraw based on a stipulation on March 9, 2006 (Dkts. 217, 218).
8 At the time of his withdrawal, there was no mention of the need for a continuance.
9 Indeed, had that question been raised at the time of Mr. Salibra's withdrawal, the
10 court might well have denied the withdrawal in view of the impending trial date
11 under the authority of Western District of Washington Local General Rule 2(f);
12 Rule of Professional Conduct 1.15(d); In the Matter of the Disciplinary Proceeding
13 Against Antony P. DeRuiz, Attorney at Law, 152 Wash.2d 558 (2004) ("[A]
14 lawyer may withdraw only if the withdrawal can be accomplished without material
15 adverse effect on the interests of the client."); & Kingdom v. Jackson, 78 Wn.
16 App. 154 (1995) (listing "factors for the court to consider when faced with a
17 motion to substitute counsel").
- 18 3) Many lawyers have appeared for the defendants and are still on record as
19 representing the defendants.
- 20 4) In its motion (Dkt. 219), defendants on page 6 state that, "Judge Lasnik's May 1
21 docket was full with approximately 12 cases scheduled for that day. Until Judge
22 Lasnik recently transferred this case in mid-February, it was reasonable for all
23 parties to anticipate a continuance of the May 1 date." Defendants are in error. It
24 was entirely unreasonable not to anticipate that the case would go to trial on
25 May 1.
- 26 5) This court's *pro hac vice* rule (Western District of Washington Local Rule 2(d)) is
27 designed to avoid the exact situation the court is facing here. The court can rely
28 on Mr. Knowles' representation that he "will be prepared to handle the matter,

1 including the trial thereof, in the event the applicant is unable to be present on any
2 date assigned by the court.” The rule means what it says.

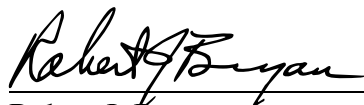
- 3 6) From plaintiff’s showing, it appears that the problem presented is one of the
4 defendants’ own making. There is no showing that Mr. Salibra would not be
5 available to be hired by the defendants or by their local counsel, to try the case or
6 to assist local counsel in trying the case.¹

7 The court also notes that this situation presents an added burden of professionalism on all
8 counsel in the case. Plaintiffs’ counsel should cooperate with new lead defense counsel in
9 preparing the case for submission on its merits, and should not use the defendants’ problems in
10 preparing the case unfairly against the defendants. Plaintiffs’ counsel should avoid creating
11 unnecessary work for defense counsel. All counsel are referred to the Rules of Professional
12 Conduct, and in particular, the preamble thereto.

13 For all of the foregoing reasons, defendants’ Motion for Continuance of Trial Date (Dkt.
14 219) is DENIED.

15 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
16 to any party appearing *pro se* at said party’s last known address.

17 DATED this 21ST day of March, 2006.

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19 Robert J. Bryan
20 United States District Judge s

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26 ¹Defendants’ motion (Dkt. 219) at page 3 line 21, raised the issue of whether Mr. Salibra is “member in
27 good standing of the bar of any court of the United States, or of the highest court in any other state . . .” as required
28 by Western District of Washington Local Rule 2(d). Indeed, when his *pro hac vice* status was granted by Docket
10, there was no showing of such good standing, but apparently all concerned assumed that he was a lawyer in
good standing in accord with said rule. If he lost such good standing in any bar at the time of his retirement, that
is matter that should have been anticipated and considered by Mr. Salibra and the defendants before his retirement
and before the withdrawal from this case was finalized.